

19. (canceled)

20. (canceled)

21. (Amended) The product according to claim 16, wherein the [digital] optical memory is a CD-ROM.

22. (Amended) The product according to claim 16, wherein the [digital] optical memory is non-circular.

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REMARKS

This Amendment is responsive to the Action mailed March 20, 2003, and the Examiner's comments therein have been carefully considered. A check for \$465.00 is enclosed to pay for the extension of time and to reset the due date for response to September 22, 2003. If this amount is insufficient, please charge any remainder due to our account #10-0100.

The undersigned attorney for applicant has conducted a telephone with Examiner Cassandra Hope Davis to discuss the outstanding rejections and the applied art. The Examiner's time and courtesies during such conference is appreciated.

On the basis of the conference with the Examiner, claims 5, 13, and 20 have been canceled without prejudice, and claims 1, 3, 6, 8, 9, 11, 14-16, 21 and 22 have been amended. Each of the independent claims 1, 9 and 16 now clearly require that the hang tag is in the form of an optical memory, such as a compact disk, DVD, or other optically read media. These independent claims have also be amended to clarify that the means for selectively attaching the optical memory to a product includes a pouch with dimensions for receiving the optical memory and a general elongate member attached to the pouch and attachable

to the product. The pouch is normally sufficiently and selectively closed to prevent movement of the optical memory out of the pouch independently of attachment to the product. Thus, whether or not the pouch is attached to a product, and irrespective of whether the hang tag is attached to a product, the optical memory is safely retained within the pouch so that it cannot inadvertently be separated from the pouch. Referring to Fig. 6, for example, this retention of the optical memory is in the form of either a heat- or other seal along the opening of the pouch, as suggested at one end of the pouch in Fig. 6, in the vicinity of the lead line associated with the reference numeral 432. Alternatively, it will be noted that the hole formed in the pouch through which one end of the cord 416 extends is in the upper righthand corner, as viewed in Fig. 6, the cord itself passing through both sides of the pouch forming a blocking which at least partially interferes with movement of the optical memory through the opening and blocks such optical memory from inadvertently passing through the opening. In this way, once placed within the pouch, the optical memory, it remains substantially sealed and protected from scratches, etc., until intentionally removed from the pouch by the user.

In the September 13, 2002 Office Action, claims 4, 12 and 19 had originally been indicated as containing allowable subject matter. These claims, as well as claims dependent thereon have now been rejected as being obvious and therefore unpatentable on the basis of Montague, U.S. patent application publication in view of or when combined with U.S. Design Patent No. D454,914 issued to Smith et al., for reasons stated in paragraph 2. Claims 5, 13 and 20 have similarly been rejected, in further view of U.S. Patent No. 5,090,561, issued to Specter, for reasons set forth in paragraph 1 [sic;

“paragraph 3”]. As to previously allowable claims 1, 9 and 16, the Examiner indicates that arguments submitted are moot in light of the new ground of rejection. For reasons more fully discussed below, and in light of the telephone conference with Examiner Davis, applicants request that the prior art rejections of the claims of record be reconsidered and withdrawn.

Independent claims 1, 9 and 16 have each been amended to limit the hang tag to those that include or utilize an optical memory. Furthermore, each of these independent claims now requires that the means for selective attachment include a pouch having dimensions to receive the optical memory and a generally elongate member, which is attached to the pouch and is attachable to the product. The pouch, according to these claims, is normally sufficiently and selectively closed to prevent movement of the optical memory out of the pouch independently of attachment to the product.

The rejection contained in paragraph 2 of the Action is believed to have been overcome by amendment of claims 1, 9 and 16 and the amendment and cancellation of those other claims that addressed the inclusion of an eyelet or the like that could be severed from the optical memory. Claims 5, 13 and 20, rejected on the view of Montague, Smith and Specter have been canceled without prejudice. Therefore, this rejection is also believed to be moot. However, the subject matter of these claims, namely, use of a pouch as part of the attachment means has now been incorporated into independent claims 1, 9 and 16. It is respectfully submitted that none of the applied references teaches or even remotely suggests the subject matter of amended claims 1, 9 and 16.

Montague teaches a computer-readable medium product label apparatus and

method. In each the embodiments disclosed, however – for example, shown in Figs. 3 and 4 – various optical memories in the form of differently shaped CDs include a hole or aperture through the bodies of these CDs through which an elongate loop is passed for attachment to a product. In Fig. 5, a sleeve 110 is given, with a tie 75 at the end opposite to the opening of the sleeve, so that the CD inadvertently separates from the sleeve through the opening. In Fig. 5, the sleeve is connected to a backing 114 that is itself connected to the product by the tether 75. Elaborate stubs or keepers are then used to retain the CD.

The patent to Specter for a compact disc package does not teach or suggest that such package is attached by means of an elongate member to a product. Instead, Specter teaches the use of a card 14, which is provided with a circular cutout on the front face thereof to accept or receive a CD. The card 14 is provided with apertures 15, 16, at opposing corners proximate to the opening so that the card may be hung on a display or a wall, as suggested in Fig. 6. It will be appreciated that the sleeve 17 does not directly receive the CD. Instead, the CD is first placed with in the card so that the text on the card and/or the CD can be readily viewed and read when mounted for display. Furthermore, it will also be clear that the CD readily be removed from the sleeve, particularly when the sleeve is supported on the surface. However, when the sleeve is removed from the wall, and, therefore, not attached in the intended manner, the card and or the CD may be removed and, depending on the orientation of the sleeve, may inadvertently separate. Furthermore, Specter does clearly not teach the use of an elongate member to attach the sleeve to any product or item. Instead, it appears that nails or thumbtacks are intended to

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Serial No.: 09/659,525 – Art Unit: 3611

be used for mounting the sleeve to a surface such as a wall.

The Examiner has indicated that amendments to the claims as submitted herewith would overcome the combination of references including Specter. It is believed, then, that this application is now in condition for allowance. Early allowance and issuance is, accordingly, respectfully solicited.

*Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.*

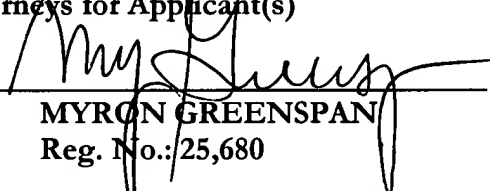
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*Certificate of Deposit by Mail*

*I hereby certify that this correspondence is being filed by depositing same in an envelope stamped first-class mail, addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, in a duly marked U.S. Postal Service drop box, with appropriate postage, on the following date:*

Myron Greenspan

Name

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September 22, 2003

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